Co. v. *Cornell*, 10 N. Y. Misc. 553. See *Mearshon* v. *Lumber Co.*, 187 Pa. St. 12. *Contra*, *Western Paper Bag Co.* v. *Johnson*, 38 S. W. 364 (Tex. Civ. App.). The attempted distinction in the principal case that the requirement was merely a condition precedent to maintaining an action in the state courts, and not a regulation of interstate commerce, seems unsound. *Bateman* v. *Western Star Milling Co.*, 1 Tex. Civ. App. 90; *Murphy Varnish Co.* v. *Cornell*, *supra*. For to prevent an action for the purchase price in a sale of this character, merely because the foreign corporation has not fulfilled the statutory requirement, is surely a potent hindrance on interstate commerce.

JUDGMENT — COLLATERAL ATTACK — ATTACK BY SUIT TO QUIET TITLE. — By a divorce decree, title to land was declared to be in the husband. The wife brought suit to have title to the land quieted in her as against the husband and a *bona fide* purchaser from him, alleging that the decree was based on a stipulation obtained by fraud and duress, and was subsequently altered. *Held*, that the suit is a direct attack on the decree. *Kwentsky* v. *Sirovy*, 121 N. W. 27 (Ia.).

An attack on a judgment is collateral, in contradistinction to direct, unless the proceeding is expressly adapted and instituted to annul or modify the decree *Morrill* v. *Morrill*, 20 Or. 96. If the proceeding has an independent purpose the attack is collateral, although the modification of the judgment is a prerequisite to the end sought. *Lovitt* v. *Russell*, 138 Mo. 474. *Cf. Homer* v. *Fish*, 1 Pick. (Mass.) 435. Maintaining that under liberal code procedure, the courts should give the parties every relief to which the stated facts entitle them, regardless of the form in which the facts may be presented, some jurisdictions have held that a suit brought expressly to set aside a decree fraudulently obtained is not a collateral attack thereon, even though asking for further relief in the matter of title. *Noble* v. *Aune*, 50 Wash. 73. And in a proceeding to revive a judgment, the defendant's answer attacking it has been held to be direct. *Waterman* v. *Bash*, 46 Wash. 212. *Contra*, *Friedman* v. *Shamblin*, 117 Ala. 454. The principal case is not an extreme application of a doctrine which considers as direct any attack raised by the pleadings, thus accomplishing liberality in procedure at the expense of stability of judgments.

LANDLORD AND TENANT — CONDITIONS AND COVENANTS IN LEASES — ACTION BY LANDLORD DURING TERM. — After breach of the tenant's covenant to repair the landlord made the repairs, and during the term sued for the cost thereof. *Held*, that since the landlord has failed to show damage to the reversion, he cannot recover. *Wechsler* v. *Gude Co.*, 117 N. Y. Supp. 1037 (Sup. Ct.).

In England in such cases, the measure of damages is usually the diminution in the value of the reversion. *Doe* v. *Rowlands*, 9 C. & P. 734. But where this test is not practicable, the landlord has been awarded the cost of repairing. *Davies* v. *Underwood*, 2 H. & N. 570. In this country, this latter criterion has always been applied. *Schiefelin* v. *Carpenter*, 15 Wend. (N. Y.) 400; *Buck* v. *Pike*, 27 Vt. 529. In the principal case the court gives no reason for departing from the authorities, basing its decision entirely on a *dictum* in a recent case. See *Appleton* v. *Marx*, 191 N. Y. 81. The theory adopted is that the only damages recoverable during the term are for injuries to the reversion; while in an action brought after expiration of the lease, the measure of damages is the cost of repairing. This doctrine places the landlord in a dilemma when the tenant breaks his covenant to repair. Either he must permit the premises to deteriorate in order to show damage to the reversion; or if he repairs, he must wait for reimbursement till the lease expires. The decision seems indefensible, both on principle and on authority.

LEGACIES AND DEVISES — PARTICULAR INSTANCES OF CONSTRUCTION — IMPOSSIBILITY OF PERFORMANCE OF CONDITION SUBSEQUENT. — A testatrix bequeathed money to a church, to be used in building a Sunday school on a stipulated site. In condemnation proceedings by the county to get the proposed site,